

more strains of a *Lactobacillus* or one or more strains of a *Bifidobacterium* species and the at least one yeast strain is a strain of a *Saccharomyces* species.

--24. (new) The composition according to claim 14, further comprising dead yeast cells.

--25. (new) The composition according to claim 14, wherein the ratio between the probiotics and the one or more non-digestible oligosaccharides is in the range of 1 to 5 g oligosaccharides per  $10^8$  to  $10^{11}$  cells of the probiotics.

--26. (new) The composition according to claim 14, which contains the probiotics in a concentration of  $10^7$  to  $10^{11}$  live cells per gram of total product.--

#### REMARKS

The specification is revised herewith to adopt section headings.

Claims 1-13 previously in the case are cancelled herewith, without prejudice, in favor of a new set of claims 14-26. The new claims are believed proper as to form and patentable relative to the applied prior art.

Claims 14-26 correspond generally in scope to previous claims 1-13. They are not presented in the identical order, in that, when drafting the new claims, the claims were reordered in

a manner that is believed more logical given their subject matter.

When drafting the new claims, each of the points of indefiniteness identified by the Examiner in the indefiniteness rejection applied at pages 2-3 of the Official Action, was addressed and corrected.

It is therefore believed that the indefiniteness rejection applied to previous claims 1-13 should not be repeated with respect to any of the new claims 14-26.

The only other issue raised in the Official Action was the rejection of claims 1-13 as allegedly being anticipated by EHRET 5,700,684. That rejection is respectfully traversed, for the following reasons.

The new independent claim 14 specifies that the claimed composition is in dried form. Support for that recitation appears for example at page 5, line 20 and Examples 1, 2 and 4-6. As EHRET does not disclose that feature, it is not anticipatory of any of the new claims 14-26.

EHRET concerns panification which makes use of a biomass. The biomass which is obtained is comparable to the sponges of the traditional type (column 2, lines 26-27). Accordingly, the products obtained by the process of EHRET are either in the form of a sponge, that is in the form of a liquid product or if concentrated by centrifugation or filtration and having a reduced content of water (column 3, lines 3-4) in the

form of paste. That the biomass obtained is in a form of a liquid or paste is clear from the examples given for the preparation of the culture medium (column 7, line 64 to column 9, line 10).

Accordingly, by specifying that the composition is in dried form, the new claims are novel.

Although no obviousness rejection was applied in the outstanding Official Action, we nevertheless briefly point out herein why none of the new claims 14-26 would be obvious based on the teaching of EHRET.

EHRET is concerned with a totally different problem than that of the present invention. Hence, EHRET is concerned with the producing of a ferment which is usable for direct panification (column 2, lines 66-67), whereas the present invention is concerned with the preparation of a composition with a health-promoting action, in particular, for the prevention and/or treatment of disorders of the digestive tract. As these problems are totally distant from each other, there is nothing in the cited document that would have suggested to the skilled artisan the present invention.

In view of the present amendment and the foregoing remarks, therefore, it is believed that this application is now in condition for allowance, with new claims 14-26. Allowance and passage to issue on that basis are accordingly respectfully

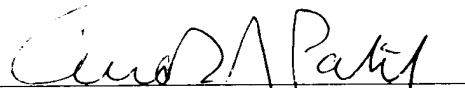
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requested.

Respectfully submitted,

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